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SUBJECT: Press freedom quarterly: January-March 2008

11. (SBU) Summary: Congolese authorities used restrictive freedom of expression laws to convict a journalist in Kasai Oriental province and arrest four others in Kinshasa and South Kivu. Police beat a cameraman filming their operations in Katanga. Legal proceedings resumed in the case of murdered Radio Okapi journalist Serge Maheshe; MONUC issued a report denouncing the conduct of the original trial. Many of these abuses are the result of a gap between constitutional protections and Mobutu-era defamation laws. End Summary.

12. (SBU) Congolese government and security officials continue to use Mobutu-era legislation criminalizing allegations against public officials to intimidate and detain journalists. The 2006 constitution guarantees freedom of speech, but Parliament has not yet acted to update the legal code. This message highlights five cases reported by press freedom NGO's during the first quarter of the year. It also reports on the beating of a journalist by police and provides an update on legal proceedings in the case of murdered Radio Okapi journalist Serge Maheshe.

Convicted for "damaging allegations"

13. (U) On February 12, a court in Mwene-Ditu, Kasai Oriental sentenced Justin Kabasele, a reporter with Radio-Television Kasai Horizons (KHRT), to one year in prison and a fine of 750,000 FC (approximately \$1,400) for making "damaging allegations." In a broadcast on May 15, 2007, Kabasele had reported that a Mwene-Ditu government employee was having an extra-marital affair. His lawyers have filed an appeal. Journaliste en Danger (JED) told us March 22 that Kabasele had fled and his whereabouts were unknown.

Detained by authorities

14. (SBU) On February 12, Justice Minister Mutombo Bakafwa ordered the release from Kinshasa central prison of Maurice Kayombo, a reporter for the investigative magazine Les Grands Enjeux, following 34 days of detention. According to Reporters Sans Frontieres (RSF), Christophe Kanonio, Secretary-General of the Mining Ministry, had ordered Kayombo arrested January 9 after calling him to his office to verify information for a story on management of the mining sector. Initially charged with "blackmail and insulting authority," Kayombo was transferred January 12 to a holding cell at the Gombe High Court, which charged him with "damaging allegations and attempted fraud." He was transferred to Kinshasa's central prison January 16. RSF told us March 22 that he is currently free. Kayombo told us March 31 that Les Grands Enjeux had fired him. He said he was preparing a lawsuit against Kanonio but does not have the funds needed to hire an attorney to pursue the case.

15. (U) On March 7, unidentified armed men arrested Editor Ponte Nsimba Embete of the Kinshasa bi-weekly L'Interprete at the "Pascal"

bus terminal in the Kinshasa commune of Masina. According to JED, his family and lawyers later learned he was being held in a building used by the National Intelligence Agency (ANR) near the prime minister's office. On March 29, Nsimba's assistant David Ntongo Nzovuangu was also arrested. Nsimba's family and MONUC have both been unsuccessful in obtaining information about them.

¶6. (U) Both journalists remain incommunicado; neither has been charged. However, JED reported in an April 10 letter to Interior Minister Denis Kalume that Communications Minister Emile Bongeli had told the group Nsimba was being held for criticizing President Kabila. L'Interprete claimed in its February 29 edition that Kabila had been killed; it later revised its story to allege that he had been wounded by his bodyguards. Before his arrest, Nsimba claimed he had received threats because of the allegations.

¶7. (SBU) On March 18, police arrested Dominique Kalonzo of community radio Messenger du Peuple while he was reporting from court in Uvira, South Kivu. The station's director told MONUC's Radio Okapi that the three police officers who arrested Kalonzo also took his equipment. Kalonzo had received a summons to appear for questioning in a case of "slander" against a local high school. Students had complained about having to pay additional fees for classes held during January 2008 holidays. Kalonzo told us April 9 that the Uvira prosecutor ordered him released without charge following three hours in jail.

Assaulted by police

¶8. (SBU) On January 13, police in Likasi, Katanga questioned Jacob Shimbi of Radio-Television Likasi 4, who was filming the demolition of illegal kiosks. According to L'Observatoire de la Liberte de la

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Presse en Afrique (OLPA), a Congolese advocacy NGO, police brutally beat Shimbi after he was unable to show them his credentials as a journalist and refused to give them his camera.

Maheshe murder case appeal

¶9. (SBU) On February 20, the Bukavu Military Tribunal opened proceedings in the twice-postponed appeal of the four men convicted for the June 13, 2007 murder of Radio Okapi editor Serge Maheshe. On March 5, the Court denied a petition for release of Serge Mohima and Alain Shamavu, friends of Maheshe convicted on the basis of testimony by alleged perpetrators Freddy Bisimwa and Mugisho Rwenzangabo. Bisimwa and Rwenzangabo had later recanted, and accused two of the five military magistrates presiding at the appeal of pressuring them to implicate Mohima and Samavu. The appeal is still ongoing.

¶10. (SBU) On March 7, MONUC's Human Rights office published a report criticizing conduct of the August 7 trial which convicted the four. The report called the proceedings flawed at every stage by serious violations of the basic right to a fair trial. It also highlighted the injustice of death sentences since the court had acknowledged contradictions and lack of clarity in evidence. It specifically criticized the prosecution's failure to follow up leads related to a robbery by two soldiers and an altercation Maheshe had had with officers of the presidential guard.

Comment

¶11. (SBU) Old habits die hard. Many officials will continue to use defamation laws currently on the books to harass critics until Parliament acts to close the gap between constitutional protections and the repressive practices codified during the Mobutu regime. End comment.

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